

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 5, 2004

The Council of the City of San Jose convened in Regular Session at 9:33 a.m. in Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of In Re: Verdin, In Re: Kerns, Cripe v. City of San José, et al., Preservation Action Council of San José v. City of San José, et al.; (B) to confer with Legal Counsel regarding anticipated litigation (a) of a matter where there is significant exposure to litigation pursuant to subsection, (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiation: City Manager designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters, (3) Municipal Employees Federation, (4) Confidential Employees Organization, (5) City Association of Management Personnel, (6) Association of Maintenance Supervisory Personnel, (7) Operating Engineers, Local 3, (8) International Brotherhood of Electrical Workers, (9) Association of Building and Mechanical and Electrical Inspectors, (10) Association of Engineers and Architects, (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:42 a.m. and reconvened at 1:36 p.m. in Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

INVOCATION (DISTRICT 9)

Reverend Daniel Selbo of St. Timothy's Lutheran Church conducted a prayer.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and unanimously carried, the Order of the Day and the Amended Agenda were approved. (11-0).

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the week of October 3-9, 2004 as Fire Prevention Week. (Fire)

Action: Mayor Gonzales was joined the podium by Fire Chief Jeff Clet to present a proclamation declaring the week of October 3-9, 2004 as Fire Prevention Week.

1.2 Presentation of a proclamation declaring October as “Domestic Violence Awareness Month.” (Dando)

Action: Mayor Gonzales and Vice Mayor Dando presented a proclamation declaring October as “Domestic Violence Awareness Month”, to Wigsy Silverston, and Eve Castellanes.

1.4 Presentation of a commendation to the Eastside Church of God in Christ after 34 years of loyal and dedicated service to the community. (Campos) (Rules Committee referral 9/29/04)

Action: Mayor Gonzales was joined at the podium by Council Member Campos to present a commendation to members of the Eastside Church of God in Christ.

1.5 Presentation of the Silicon Valley/San Jose Business Journal 2004 Structure Awards related to the New City Hall. (City Manager’s Office) [Rules Committee Referral 9/29/04]

Action: Mayor Gonzales invited Vintage Foster, Publisher of Silicon Valley/San José Business Journal; Michael Palladino, Partner of Richard Meier Partners (RMP); Gary Filizetti, President of Devcon; Daisy Anzoategui, Senior Project Manager of Devcon; Michael O’Brien, Vice President and General Manager of Turner Construction; and Rob Steinberg, President of the Steinberg Group to the podium. Mr. Foster presented the Silicon Valley/San José Business Journal 2004 Structure Awards to the City of San José for the New City Hall, to Turner Construction for their work on the New City Hall, and the Architectural Design Firm of the Year Award to the Steinberg Group.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Vice Mayor Dando and unanimously carried, the Consent Calendar was approved as indicated with the exception of, Item 2.3 (pulled by Council Member Williams and Item 2.6 was pulled by Vice Mayor Dando) (11-0).

2.1 Approval of Minutes.

- (a) **Regular minutes of August 10, 2004.**
- (b) **Regular minutes of August 17, 2004**
- (c) **Joint Council/Financing Authority minutes of August 17, 2004**

Documents Filed: Regular minutes of August 10, 2004, August 17, 2004, and Joint Council/Financing Authority minutes of August 27, 2004.

Action: The minutes were approved. (11-0).

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 27249 – Grants a commercial solid waste and recyclables collection franchise to Sonrise Consolidated Inc.**
- (b) **ORD. NO. 27250 – Rezones certain real property situated on the north side of Madeline Drive, approximately 200 feet easterly of White Road (3361 Madeline Drive) to R-I-8 Residence Zoning District. C04-049**
- (c) **ORD. NO. 27251 – Rezones certain real property situated on the south side of Story Road, approximately 200 feet westerly of Jackson Avenue (2278 Story Road) to CP Commercial Pedestrian Zoning District. C04-058**
- (d) **ORD. NO. 27252 – Rezones certain real property situated at southeast corner of South 12th Street and Orvis Avenue and at the northeast corner of South 11th and East Virginia Street to A(PD) Planned Development Zoning District. PDC 03-094**
- (e) **ORD. NO. 27253 – Rezones certain real property situated on the northeast corner of Gish Road and North First Street to A(PD) Planned Development Zoning District. PDC 04-055**
- (f) **ORD. NO. 27254 – Rezones certain real property situated on the southwest corner of Lundy Avenue and McKay Drive (1240 McKay Drive), to A(PD) Planned Development Zoning District. PDC 04-001**

Documents Filed: (1) Proofs of publication of titles of Ordinance Nos. 27249 through 27254 executed on September 28, 2004, submitted by the City Clerk.

Action: Ordinance Nos. 27249 through 27254 were adopted. (11-0).

- 2.3 (a) **Approval to extend the Healthy Neighborhood Venture Fund (HNVF) funding term for one year, from June 30, 2004 to June 30, 2005, for the following project (second extension):**
 (1) **EH044 Strengthening Our Center - Indian Health Center.**
(b) **Authorization for the Director of Parks, Recreation and Neighborhood Services to amend, negotiate, and execute the grant agreement.**
CEQA: Not a Project. Council District 6. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated September 15, 2004, recommending the extension and authorization for the Director of Parks, Recreation and Neighborhood Services.

Public Comments: Liz Hunt, Director of the Indian Health Center of Santa Clara Valley and Ross Gritts spoke in support of the HNVF funding.

Action: The extension of the HNVF funding term and authorization for the Director of Parks, Recreation and Neighborhood Services were approved. (11-0).

- 2.4 **Adoption of a resolution authorizing the reorganization of territory designated as Hillview No. 72, which involves the annexation to the City of San José of 0.18 acre of land more or less, located at the northwest corner of Story Road and Lyndale Avenue and adjacent to the City of San José annexations Hillview Nos. 11 and 62, and the detachment of the same from Central Fire Protection, Area No. 01 (Library Services) County Services, County Lighting County Services and County Sanitation District 2-3. CEQA: Mitigated Negative Declaration, PDC04-022. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 15, 2004, recommending the adoption of the ordinance. .

Action: Resolution No. 72337, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Hillview No. 72, Subject to Liability for General Indebtedness of the City", was adopted. (11-0).

- 2.5 **Adoption of a resolution authorizing the reorganization of territory designated as McKee No. 126, which involves the annexation to the City of San José of 15.32 acres of land more or less, located at the west side of North Capitol Avenue, opposite Penitencia Creek Road and adjacent to the City of San José annexations McKee Nos. 12, 54, and 98, and Berryessa No. 65, and the detachment of the same from Central Fire Protection and Area No. 01 (Library Services) County Services. CEQA: Mitigated Negative Declaration, PDC04-017. Council District 4. (Planning, Building and Code Enforcement)**

2.5 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 15, 2004, recommending the adoption of the ordinance.

Action: Resolution No. 72338, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Un-inhabited Territory Designated as McKee No. 126 Subject to Liability for General Indebtedness of the City", was adopted. (11-0)

- 2.6 (a) Adoption of resolution accepting a \$20,000 donation from San José businesses to be used for Internet Crimes Against Children Conference.**
- (b) Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the Gift Trust Fund:**
- (1) Establish an appropriation to the Police Department for Internet Crimes Against Children Gifts in the amount of \$20,000.**
 - (2) Increase the estimate for Earned Revenue by \$20,000.**
- CEQA: Not a Project. (Police/City Manager's Office)**

Documents Filed: Memorandum from Chief of Police Robert L. Davis and Budget Director, Larry D. Lisenbee, dated September 15, 2004, recommending the adoption of the resolution and amendments..

Action: Ordinance No. 27257, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Gift Trust Fund for the Internet Crimes Against Children Gifts; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72339, entitled: "A Resolution of the Council of the City of San José Accepting a Donation of \$20,000 from Local Businesses for the Internet Crimes Against Children Program and Related Projects", and Resolution No. 72340, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Gift Trust Fund", were adopted. (11-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Items 10.1 and 10.2 in a Joint session at 2:17 P.M.

10.1 (a) Adoption of a resolution of the City Council:

- (1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Delmas Park) Series 2004C-1 and Series 2004C-2" in an aggregate principal amount not to exceed \$19,379,000 (collectively, the "Bonds" and, individually, the Public Hearing on and consider approval of an ordinance on a Planned Development Rezoning from County to A(PD) Planned Development Zoning District, to allow up to 31 single-family detached residences on a 3.49 gross acre site, located at the north side of Umbarger Road approximately 1,200 feet westerly of Senter Road (425 Umbarger Road). (TLB Properties LLC, Owner; DAL Properties LLC – Mark Lazzarini, Developer). CEQA: Mitigated Negative Declaration. SNI: None.
PDC 04-054 - District 7 Series 2004C-1 Bonds and Series 2004C-2 Bonds);**
- (2) Approving a loan of Bond proceeds to Delmas Park Associates, L.P., a California limited partnership, for financing the construction of the Delmas Park Apartments Project located at 598 West San Carlos Street in San José;**
- (3) Approving in substantially final form the Bonds, Trust Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement and Subordination Agreements; and**
- (4) Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute, and deliver these bond documents and other related bond documents as necessary.**

CEQA: Resolution No. 68839, and addenda thereto, PDC 03-016. Council District 3. (Housing/Finance)

- (b) Adoption of a resolution by the Redevelopment Agency Board approving an Owner Participation and Grant Agreement with Delmas Park Associates, L.P., a California limited partnership, or a related entity, in the amount of \$1.5 million for the development of property for a mixed-use residential and retail project located at 598 West San Carlos Street. (Redevelopment Agency)**

(Deferred from September 28, 2004 – Item 10.2)

Documents Filed: None.

Action: This item was deferred to October 12, 2004.

- 10.2 (a) Adoption of a resolution by the City Council expressing interest in the acquisition of all or a portion of the property identified in the Alum Rock Elementary School District Notice of Availability of Surplus School District Property, dated August 2, 2004 and received on August 6, 2004 at the following schools: Miller Elementary School (Assessor's Parcel Number 486-11-029) (7.1 acres), located on the northwesterly side of Cortez Avenue at Orlandi Drive, and the Ocala Middle School (Assessor's Parcel Number 491-14-002) (surplus acreage not specified) located on the east side of Wonderama Drive, southerly of Ocala Avenue, making findings that public lands in the vicinity of the sites are inadequate to meet foreseeable needs related to recreation and open space areas, amending the School Site Reuse Plan accordingly, and directing the City Manager to notify the Alum Rock Elementary School District by October 5, 2004, of the City's interest. CEQA: Not a project. Council District: 5 and 8. SNI: East Valley/680.
- (b) Adoption of a resolution by the Redevelopment Agency Board expressing interest in the acquisition of all or a portion of the property identified in the Alum Rock Elementary School District Notice of Availability of Surplus School District Property, dated August 2, 2004 and received on August 6, 2004 at the following schools: Miller Elementary School (Assessor's Parcel Number 486-11-029) (7.1 acres), located on the northwesterly side of Cortez Avenue at Orlandi Drive, and the Ocala Middle School (Assessor's Parcel Number 491-14-002) (surplus acreage not specified) located on the east side of Wonderama Drive, southerly of Ocala Avenue, making findings that public lands in the vicinity of the sites are inadequate to meet foreseeable needs related to recreation and open space areas, and directing the Agency Director to notify the Alum Rock Elementary School District by October 5, 2004, of the Agency's interest.

CEQA: Not a project. Council District: 5 and 8. SNI: East Valley/680.

(City Manager's Office/Redevelopment Agency)

(Rules Committee Referral 9/29/04)

Documents Filed: Memorandum from City Manager Del D. Borgsdorf and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated October 4, 2004, recommending the adoption of the resolutions.

Public Comments: William Garbett spoke in opposition to the resolutions.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, Resolution No. 72347 and Agency Resolution No. 5548 were adopted with additional direction to staff to include the city's interest in Joseph George Middle School. (11-0).

The Redevelopment Agency Board portion of the meeting adjourned at 2:20 P.M.

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 29, 2004 (Partial) Vice Mayor Dando, Chair

Documents Filed: The Partial Rules Committee Report of September 29, 2004..

(c) Legislative Update

(1) State

- (a) Approve City Positions on November 2004 State Ballot Propositions. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated September 23, 2004, recommending approval of City Positions on the November 2004 State Ballot Propositions.

The Committee recommended approval of City Positions on the November 2004 State Ballot Propositions: 1A; 59; 60; 60A; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; and 72.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and unanimously carried, the Partial Report of the Rules Committee of September 29, 2004 was accepted. (11-0). Council approved the positions on the ballot propositions:

Proposition 1A – to support.

Proposition 59 – to support.

Proposition 60 – to oppose. Noes: Campos, Cortese, Gregory.

Proposition 60A – to support.

Proposition 61 – to support.

Proposition 62 – to support. Noes: Chavez, Cortese.

Proposition 63 – to support. Noes: Chavez, Dando, Reed.

Proposition 64 – to oppose. Noes: Dando.

Proposition 65 – to oppose.

Proposition 66 – to oppose. Noes: Cortese, Gregory, LeZotte.

Proposition 67 – to oppose.

Proposition 68 – to oppose.

Proposition 69 – to support.

Proposition 70 – to oppose.

Proposition 71 – to support.

Proposition 72 – to take no position.

3.3 Report of the Making Government Work Better Committee – September 16, 2004 Council Member Campos, Chair

Documents Filed: The Making Government Work Better Committee of September 16, 2004.

3.3 (Cont'd.)

- (a) Review of Request for Proposal Issues. Attachments: (1) Memorandum from Assistant to the City Manager Deanna J. Santana, dated September 13, 2004, transmitting a Conflict of Interest form for consultants. (2) Memorandum from Assistant to the City Manager Deanna J. Santana, dated September 9, 2004, recommending the acceptance of the report on the City's Request for Proposals process and staff direction.
 - (1) Review of the City's RFP Process
 - (2) Administrative Procedures and Definitions Related to Conflict of Interest with Consultant Contracts

Deferred until October.

- (b) Transport Vehicle Audit Follow-up. Attachment: Memorandum from Director of Employee Relations, Alex Gurza, dated September 9, 2004, recommending acceptance of the status report on the follow-up actions related to the transport vehicle audit, and direct staff to return to the Committee at its meeting on October 21, 2004 with a draft policy for the Committee's review.

The Committee accepted the Staff report.

- (c) Major IT Projects Update. Attachments: (1) Memorandum from Acting CIO of Information Technology, James R. Helmer, dated September 9, 2004, recommending acceptance of the status report on major information technology projects. (2) Memorandum from Vice Mayor Dando, Council Member Reed and Council Member Campos, dated September 27, 2004, recommending the direction to the Administration to present the City Council on October 5, 2004 during the Making Government Work Better Committee report their efforts to resolve the problems and issues that have surfaced as a result of the replacement of the Computer Aided Dispatch System (CAD). (3) Memorandum from Deputy City Manager Kay Winer, dated October 1, 2004, transmitting informational memorandums regarding the Computer Aided Dispatch (CAD).

The Committee accepted the Staff report.

- (d) Concentrated Code Enforcement Audit Follow-up. Attachment: Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 9, 2004, transmitting the Concentrated Code Enforcement Program Status Report.

The Committee accepted the Staff report.

- (e) Follow-up on Fire Department Overtime. Attachment: Memorandum from Fire Chief Jeff Clet, dated September 9, 2004, recommending the acceptance of the Fire Department's Update Response.

The Committee accepted the Staff report.

3.3 (Cont'd.)

- (f) San Jose Municipal Water System (Phase I)

Deferred until October.

- (g) Oral Petitions –William Garbett

- (h) Adjournment – The Committee was adjourned at 3:15 P.M.
(Deferred from 9/28/04 – Item 3.3)

Discussion: Vice Mayor Dando requested staff return to Council in two weeks with a status update on the Computer Aided Dispatch system.

Council Member Campos asked staff to include in their report back to Council, answers to question such as what is currently outstanding in the system and what is currently being tested.

Mayor Gonzales directed staff to review and consider user ability-study prepared by the Police Officer's Association.

Public Comments: Don Demers, President of the Police Officers' Association, spoke in support of the Making Government Work Better Committee report.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, the Making Government Work Better Committee Report and Actions were accepted with direction for staff to return to Council in two weeks with a status update on the Computer Aided Dispatch system: 1) What is currently outstanding; 2) What is currently being tested. Staff also directed to review and consider user ability study prepared by the Police Officer's Association. (11-0).

3.4 **Adoption of a resolution authorizing the City Manager to execute a consultant services contract to assist City staff with a business process gap analysis, contract negotiations, and provide technical architecture and quality assurance support related to the development of the BearingPoint/PeopleSoft contract scope of services. CEQA: Not a Project. (Finance)**

Documents Filed: None.

Action: This item was deferred to October 19, 2004.

3.5 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Gartner, Inc. for technical and procurement services for the New City Hall Converged Network RFP, in an amount not to exceed \$365,226 plus an additional 15% (\$54,774) for additional services related to Server/SAN procurement. (Information Technology)**

Documents Filed: None.

3.5 (Cont'd.)

Discussion: Vice Mayor Dando requested staff to provide Council with more information on the RFP and to include hourly rates for the top three firms and a list of references of Gartner, Inc.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Gregory, and unanimously carried, the item was deferred until 10/12/04 with direction to staff to bring back more information, including hourly rates for the top three firms and a list of references for Gartner, Inc.

3.6 Council consideration of a letter outlining the City's response to the closure of SJMC and discussion regarding the future of the SJMC site. (Chavez) (Rules Committee referral 9/29/04)

Documents Filed: (1) Memorandum from Council Member Chavez, dated October 5, 2004, recommending the Mayor and Council direct the Mayor to send the attached letter to HCA that outlines the City's response to the closure of the San José Medical Center and the City's proposed transition strategy to protect the public health and safety, and to begin Council discussion regarding the future of the SJMC site. (2) Letter from Dale Rai, MD, dated October 5, 2004, opposing the closure of the SJMC. (3) Letter from Chief Executive Officer of Gardner Family Health Network, Inc., dated October 5, 2004, expressing concerns relating to the closing of SJMC. (4) Letter from Chairperson of Santa Clara County Health Authority and Supervisor of District Four of the County of Santa Clara James T. Beall, Jr., dated October 5, 2004, expressing concerns regarding the closure of SJMC.

Discussion: Council Member Chavez requested staff to conduct an appraisal of the site and coordinate a presentation to study.

Council Member Cortese asked staff to continue working with Santa Clara County to ensure service delivery, to seek partners such as San José State University and Non-Profit sector development, and to return with a series of options to consider.

Public Comments: Ross Signorino spoke in support of the recommendations and suggested using funds from the Tobacco Initiative to assist the Hospital.

Don Gephardi, Bob Brownstein, Mark Boyd, Dali Rai, MD, Rosylin Dean, Sandy Perry, Paul Velsey, Dr. Bob Leininger, spoke in support of the recommendations..

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, staff was directed to; 1) conduct an appraisal of the site, 2) coordinate a presentation to study, 3) continue working with Santa Clara County to ensure service delivery, 4) to seek partners such as San José State University and non-profit sector development and, 5) return with a series of options to consider. (11-0).

- 3.7 Approve an ordinance amending Chapter 12.08 of Title 12 of San José Municipal Code to revise the City of San José Gift Ordinance. (Blue Ribbon Task Force/City Attorney)
(Rules Committee referral 9/29/04)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated September 30, 2004, transmitting a copy of the Proposed Gift Ordinance.

Public Comments: William Garbett spoke in opposition to the ordinance charges.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27258, entitled: “An Ordinance of the City of San José Amending Chapter 12.08 of Title 12 of the San José Municipal Code to Revise the City of San José Gift Ordinance”, was passed for publication, with direction to the City Attorney to provide greater clarity about “Gifts given by the sponsor of an event”. (11-0).

- 3.8 Direct Council Members who wish to participate in the San Jose Silicon Valley Chamber of Commerce/City of San Jose City to City visit in San Antonio, Texas on October 13-15, 2004 proceed with submitting their travel requests through the Rules Committee, as outlined in Council Policy 9-5, and allow for the use of the Mayor and City Council Travel Appropriation, to be established by the City Manager's Budget Office on October 12th, for reimbursement of travel expenses incurred by Council Members participating in this trip.
(City Manager's Office)
(Rules Committee Referral 9/29/04)**

Documents Filed: Memorandum from Assistant City Manager Mark Linder, dated October 4, 2004, recommending the direction.

Public Comments: William Garbett spoke in opposition to Council Members’ travel.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and unanimously carried, the direction was approved. (11-0).

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.1 Report of the Building Strong Neighborhoods Committee – September 20, 2004
Council Member Chavez, Chair**

Documents Filed: The Building Strong Neighborhoods Committee report of September 20, 2004.

- (a) Vehicle Abatement

The Committee accepted the report with the direction to include the Vehicle Abatement update in the next workplan before the next budget calendar meetings.

4.1 (Cont'd.)

- (b) Semi-Annual Greenprint Update. Attachment: Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated September 7, 2004, recommending acceptance of the report.

The Committee accepted the report with the direction to include the scope of work in the next workplan of spring 2005.

- (c) Annual Trail Report. Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated August 24, 2004, informing the Committee of a staff presentation.

The Committee accepted the report.

- (d) Anti-Graffiti & Litter Update. Attachment: Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated September 7, 2004, transmitting an update of the Anti-Graffiti and Litter Program (AGLP) enforcement efforts and year-to-date results.

The Committee accepted the report with the direction to submit an information memo on:

- Business trash bin overflow
- Cleaning of trash bins
- Fact Finding Laws and Fees on broader State level
- Caltrans litter pickup and DMV assistance

- (e) Neighborhood Development Center (NDC) Update. Attachment: Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated September 8, 2004, transmitting the Neighborhood Development Center Update.

The Committee approved the NDC update with direction to report back in the next workplan before the next budget session.

- Committee discussion resulted in direction given to provide the City Council a supplemental memo for action on the use of outside consultants to support leadership development and training activities at the Neighborhood Development Center.

SEE ITEM 4.5 FOR COUNCIL ACTION TAKEN

- (f) Oral Petitions – None.

- (g) Adjournment
The meeting adjourned at 3:37 P.M.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, the Building Strong Neighborhoods Committee Report and Actions of September 20, 2004 were accepted. (11-0).

- 4.3 Reports on bids and award of contract for the Towers Lane Improvement Project (north of Aborn Road) to the low bidder, DeSilva Gates Construction, LP, in the amount of \$626,191, and approval of a 15 percent contingency in the amount of \$94,000. CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation) (Deferred from 8/31/04 – Item 4.3, et al, and 9/21/04 – Item 4.5)**

Documents Filed: None.

Action: This item was deferred to October 12, 2004.

- 4.4 (a) Adoption of a resolution:**
- (1) Authorizing the Director of Housing to accept BEGIN housing program grants from the California Department of Housing and Community Development (HCD) and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following Building Equity and Growth In Neighborhoods grants:**
 - (a) A \$1,410,000 grant to fund downpayment assistance loans to purchasers of homes in the Las Mariposas development.**
 - (b) A \$510,000 grant to fund downpayment assistance loans to purchasers of homes in the San Carlos/Fiesta Lanes development.**
 - (c) A \$240,000 grant to fund downpayment assistance loans to purchasers of homes in the Previtera Court development.**
 - (2) Authorizing the Director of Housing to negotiate and execute an agreement with Neighborhood Housing Services Silicon Valley for the marketing of the program, the qualifying and selection of the borrowers, and processing of City loans.**
- (b) Approval of the following appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund:**
- (1) Establish a new CalHome (BEGIN) appropriation in the amount of \$2,160,000.**
 - (2) Increase the estimate for Grant Revenue Proposition 46 in the amount of \$2,160,000.**

Council Districts 3, 5, and 6. CEQA: Not a Project. (Housing/City Manager's Office)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia and Budget Director, Larry D. Lisenbee, dated September 20, 2004, recommending the resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27259, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Multi-Source Housing Fund for the CalHome (BEGIN) Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption, Resolution No. 72342, entitled: "A Resolution of the Council of the City of San José (1) Authorizing the

4.4 (Cont'd.)

Director of Housing to Accept Begin Housing Program Grants From the California Department of Housing and Community Development and to Negotiate and Execute the Grant Agreements and Any Amendments or Other Documents Necessary to Implement the Programs Funded by the Following Begin Grants: (a) A \$1,410,000 Grant to Fund Downpayment Assistance Loans to Purchasers of Homes in the Las Mariposas Development, (b) A \$510,000 Grant to Fund Downpayment Assistance Loans to Purchasers of Homes in the San Carlos/Fiesta Lanes Development, (c) A \$240,000 Grant to Fund Downpayment Assistance Loans to Purchasers of Homes in the Previtera Court Development and, (2) Authorizing the Director of Housing to Negotiate and Execute an Agreement with Neighborhood Housing Services Silicon Valley for the Marketing of the Program, the Qualifying and Selection of the Borrowers, and Processing of City Loans”, and Resolution No. 72343, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Multisource Housing Fund”, were adopted. (11-0).

4.5 Discussion and action on the use of outside consultants to support leadership development and training activities at the Neighborhood Development Center. (Parks, Recreation and Neighborhood Services) [Building Strong Neighborhoods Committee referral 9/20/04 – Item 4.1(e)]

Documents Filed: Supplemental memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated September 28, 2004, recommending discussion and action.

Public Comments: William Garbett spoke in opposition to using outside consultant..

Don Gephardi also spoke in opposition to using outside consultants and suggested Council use the money instead to develop new projects for SNI communities.

Discussion: Vice Mayor Dando requested staff to provide updates to the Building Strong Neighborhoods Committee on the use of outside consultants.

Action: Upon motion Council Member Chavez, seconded by Council Member Cortese, and unanimously carried, staff was directed to provide updates to the Building Strong Neighborhoods Committee on the use of outside consultants. (11-0).

RECREATION & CULTURAL SERVICES

- 5.3 (a) **Approval of the list of San José B.E.S.T. Eligible Service Providers for 2004-2007.**
- (b) **Adoption of a resolution authorizing the City Manger to negotiate and execute grant agreements and amendments with the San José B.E.S.T. Eligible Service Providers, consistent with the directives of the Mayor's Gang Prevention Task Force for a term of September 1, 2004 through August 31, 2005, and for a total amount not to exceed \$2,465,000.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: None.

Action: This item was deferred to October 12, 2004.

- 5.4 (a) **Approval of Contract Change Order No. 41 with Granite Construction Company, for the Tuers-Capitol (Los Lagos) Golf Course Project, increasing the compensation by \$594,005.79, for a total contract amount of \$16,198,401.65.**
- (b) **Adoption of the following appropriation ordinance amendments in the General Fund:**
- (1) **Increase the Los Lagos Golf Course Enhancements appropriation in the amount of \$113,006.**
- (2) **Decrease the General Liability Claims appropriation in the amount of \$113,006.**

CEQA: Resolution No. 69623, PP98-03-064. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)
(Deferred from 9/28/04 – Item 5.2)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Budget Director, Larry D. Lisenbee, and Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated September 24, 2004, recommending approval of the contract change and adoption of the ordinance amendments.

Action: Upon motion by Council Member Gregory, seconded by Council Member Reed, and unanimously carried, the Contract Change was approved and Ordinance No. 27260, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for the Los Lagos Golf Course Enhancements; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0).

- 5.5 **Council consideration of a resolution supporting the effort to bring Major League baseball to San José. (Mayor)**
(Rules Committee referral 9/29/04)

Documents Filed: Memorandum from Mayor Gonzales, dated October 4, 2004, recommending consideration of the resolution.

5.5 (Cont'd.)

Public Comments: William Garbett spoke in opposition of the resolution.

Mike Fox, Ross Signorino, Don Gephardi, and Jim Eller spoke in support of bringing Major League baseball to San José.

Action: Upon motion by Council Member Cortese, seconded by Council Member Yeager, and unanimously carried, Resolution No. 72344, entitled: "A Resolution of the Council of the City of San José Supporting the Effort to Bring Major League Baseball to San José, was adopted. (11-0).

5.6 **Consideration of the Urgency Ordinance amending San José Municipal Code Section 7.10.010 to create an exemption for federal, state, and county employees and their duly authorized agents, in the discharge of their official duties, from the prohibition on animal traps in the City of San José and initiation of a permanent ordinance for the same purpose. CEQA: Exempt, PP04-276. (Parks, Recreation & Neighborhood Services/City Attorney's Office)** **(Rules Committee referral 9/29/04)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated October 1, 2004, recommending consideration of the urgency ordinance. (2) Letter from Villas of Almaden residents Richard D. Jordan and Nancy Kalashian, dated October 5, 2004, supporting the use of padded leg traps for coyotes.

Public Comments: Kurtis Shenefiel, D.S Courtney, Arthur Woodward, and C. Haywood spoke in support of the urgency ordinance.

Trudi Burney, Denise Connell, William J. Garbett, Mary A. Paglieri, Janet Alexander, Lorna Pusateri, Mika Snowbarger, Carole Miller, Annette Rodrigues, Craig Breon, and Beverly Andalora spoke in opposition to the urgency ordinance.

Discussion: Vice Mayor Dando requested the City Attorney to meet with County of Santa Clara's Vector Control and the California Department of Fish and Game to discuss alternative strategies to abate coyotes in the Villas of Almaden and to report back to Council on October 12, 2004 with a status update.

Action: Vice Mayor Dando moved approval of staff's recommendation to consider the proposed Urgency Ordinance with direction for staff to seek additional ways in preventing coyotes in the Villas of Almaden, seconded by Council Member Gregory. The motion to adopt failed; No Council action taken. (7-4). Noes: Campos, LeZotte, Reed, and Williams. City Attorney directed to meet with County of Santa Clara's Vector Control and the California Department of Fish and Game to discuss alternative strategies to abate coyotes in the Villas of Almaden, and to report back to Council on October 12, 2004 with a status update.

TRANSPORTATION SERVICES

- 6.2 Approval of a Cooperative Agreement with the Santa Clara Valley Transportation Authority for the preparation of Construction Impact Mitigation Plans related to major transportation improvement projects. (Transportation)**
[Building Better Transportation Committee referral 9/13/04 – Item 6.1(d)(1)]
(Deferred from 9/28/04 – Item 6.2)

Documents Filed: None.

Action: This item was deferred to October 12, 2004.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9305	sw/c Sands Drive & Canoas Garden Av.	6	Primecore Mortgage	47 lot/ 72 units	SFR Attached	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:
None.

RECESS/RECONVENE

The City Council recessed at 6:15 p.m. and reconvened at 7.06 p.m. Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: None.

The City Clerk Lee Price, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez, seconded by Council Member Campos.

CEREMONIAL ITEMS

- 1.3 Presentation of plaques to Fred Orillaneda for four years and two months of service on the Senior Citizens Commission; and to Brenda Bains for one year and two months of service on the Downtown Parking Board. (Mayor)**

1.3 (Cont'd.)

Action: Mayor Gonzales presented a plaque to Fred Orillaneda for four years and two months of service on the Senior Citizens Commission. Brenda Bains was also recognized for one year and two months of service on the Downtown Parking Board.

AVIATION SERVICES

- 8.1 Adoption of a resolution authorizing the City Manager to negotiate and execute the ninth amendment to the consultant agreement with PB Aviation, Inc., for consulting services for the Airport Master Plan, increasing the compensation by \$11,126,000, from \$48,840,000, for a total agreement amount not to exceed \$59,966,000, and extending the term of the agreement to July 1, 2006. CEQA: Resolution Nos. 67380 and 71451, PP 04-08-243. District: Citywide. (Airport/Public Works)**

Documents Filed: Memorandum from Aviation Director Ralph G. Tonseth and Director of Public Works Katy Allen, dated September 30, 2004, recommending the adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Resolution No. 72345, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Ninth Amendment to the Agreement with PB Aviation, Inc. for Consulting Services for the Norman Y. Mineta San José International Airport, Increasing the Compensation by \$11,126,000 and Extending the Term to July 1, 2006", was adopted. (11-0).

- 8.2 Adoption of a resolution authorizing the City Manager to negotiate and execute the third amendment to the agreement with M. Arthur Gensler, Jr. & Associates (Gensler) for master architectural services, increasing compensation by \$13,590,363, from \$25,060,000, for a total agreement amount not to exceed \$38,650,363, and extending the term of the agreement from December 1, 2005 to December 1, 2008. CEQA: Resolution Nos. 67380 and 71451, PP 04-08-241. District: Citywide. (Airport/Public Works)**

Documents Filed: Memorandum from Aviation Director Ralph G. Tonseth and Director of Public Works Katy Allen, dated September 30, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and unanimously carried, Resolution No. 72346, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement with M. Arthur Gensler, Jr. and Associates, Incorporated for Master Architectural Services for the Norman Y. Mineta San José International Airport Increasing the Compensation by \$13,590,363 and Extending the Term to December 1, 2008", was adopted. (11-0).

RECREATION & CULTURAL SERVICES

- 5.2 As recommended by the Parks and Recreation Commission, re-name the Northside Community Center located near the intersection of 6th Street and Empire Street to the Jacinto “Tony” Sequig Northside Community Center. (Parks and Recreation Commission/City Clerk)
(Deferred from 9/21/04 – Item 5.4)
Heard in the evening.**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated October 5, 2004, recommending the re-naming. (2) Letter from Chief Executive Officer of the Mexican American Community Services Agency, Inc. (MACSA), dated September 14, 2004, supporting the re-naming. (3) Letter from Executive Director of the Filipino Youth Coalition Sarah Gonzales, dated September 20, 2004, supporting the re-naming. (4) Letters from residents Lamberto A. Domingo, Penny Aguilla, Daryl Muyano, Irene Domingo, Rosita R. Cordero, dated September 17 and 18, 2004, supporting the re-naming. (5) Letter from Tito A. Cortez and family, dated September 20, 2004, supporting the re-naming.

Public Comments: Erlinda Sequig, Ben Menor, Richard Sequig, Vic Nakamoto, Armando Cablas, PhD, Lucky Amutan, Richard Konda, and Lorie Magsuci spoke in support of the re-naming.

Action: Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and unanimously carried, the re-naming of the Northside Community Center was approved.

PUBLIC HEARINGS

- 11.1 Public Hearing on appeal of the Planning Commission’s decision to approve a Conditional Use Permit in conjunction with an Alcohol Beverage Control Exception to allow for the off-sale of alcoholic beverages at a grocery store on a 9.5 gross acre site in the CG General Commercial Zoning District, located at the northeast corner of Jackson Road and McKee Road (2327 McKee Road). (Chavez Super Market, Developer/Chi Chiu Lo Trust, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends upholding the Planning Commission’s decision to approve the CUP. (6-0-1).
CP 04-046 - District 5
(Continued from 9/21/04 – Item 11.1)**

Documents Filed: (1) Memorandum from Council Member Campos, dated October 5, 2004, recommending upholding the Planning Commission’s decision to approve a Conditional Use Permit (CUP) and ABC Exception to allow off-sale of alcoholic beverages as an ancillary use to a full service grocery store known as the Chavez Supermarket with the following additional conditions: (a) That a C.U.P. be granted for a period of two years, and (b) That the grocery store will not operate past 10:00 p.m. daily,

11.1 (Cont'd.)

and (c) That staff report back to the Planning Commission after the market has operated for one full year to determine if there is any increase in criminal activity that can be directly attributed to the Chavez Market. (2) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 30, 2004, transmitting additional information received by Planning staff. (3) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 16, 2004, recommending the upholding of the Planning Commission's approval of the CUP. (4) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 17, 2004, transmitting attachments to the memorandum. (5) Proof of publication of Planning Commission meeting, executed on September 19, 2004, submitted by the City Clerk.

Public Comments: Beto Chavez, Hilda Sanchez, Maria Vargas, Lucia Plancarte, Feliciano Martinez, Ana Acevedo, Sandra Moran, and Alberto Velazquez spoke in support of the proposed CUP.

Don McKell, Dan Trinh, Larry Schausch, Andy Trinh, and Chris Schumb spoke in opposition to the proposed CUP because of concerns relating to the close proximity to the high school and the potential for students to illegally purchase alcohol.

Discussion: Council Member Reed requested staff to include a status update on any police activity related to underage drinking and illegal purchasing of alcohol by a minor within the close vicinity of Independence High School and to supply this report at the compliance hearing; to be heard in one year.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72351, entitled: "A Resolution of the City Council of the City of San José Granting Subject to Conditions a Conditional Use Permit and an Alcohol Beverage Control Exception to Use Certain Real Property Described Herein for the Purpose of Off-Sale of Alcoholic Beverages as an Ancillary Use to a Full Service Grocery Store", was adopted and Council approval in the form of Council Member Campos' memorandum, dated October 5, 2004, with direction contained therein, with additional direction for staff to include a status update on any police activity related to underage drinking and illegal purchasing of alcohol by a minor within the close vicinity of Independence High School and to supply this report at the compliance hearing; to be heard in one year.

11.2 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the area generally bounded by East Santa Clara Street to the north, 30th Avenue to the east, San Antonio Street and William Street to the south, and South 22nd Street to the west, from LI Light Industrial and CP Pedestrian Commercial Zoning Districts to R-2 Two-Family Residence District to reflect residential uses on a 31.34 gross acre site. CEQA: Resolution No. 65459. SNI: Five Wounds/ Brookwood Terrace. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

C 04-039 - District 3

(Continued from 6/1/04 – Item 11.11 and 6/15/04 – Item 11.3)

11.2 (Cont'd.)

Documents Filed: None.

Action: This item was continued to November 9, 2004.

- 11.3 Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the south side of State Street, approximately 300 feet easterly of Pacific Avenue, from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District, to allow up to 6 single-family detached residences on a 0.41 gross acre site. (Next Step Homes, LLC, Owner/Developer). CEQA: Mitigated Negative Declaration.
PDC 03-104 - District 4
(Continued from 9/7/04 – Item 11.3 and 9/21/04 – Item 11.3)**

Documents Filed: None.

Action: This item was continued to October 19, 2004.

- 11.4 Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the south side of Hillsdale Avenue, approximately 420 feet east of Highway 87 (568 Hillsdale Avenue), from R-1-5 and R-1-8 Residence Zoning Districts to A(PD) Planned Development Zoning District, to allow 26 single-family attached residential units on a 1.6 gross acre site. (George P Thotus Trustee et al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC 04-060- District 10**

Documents Filed: None.

Action: This item was continued to October 19, 2004.

- 11.5 Public Hearing on and consider adoption of a resolution on approving City Council Initiated Street Renaming of West Virginia Street between Hannah Street and Highway 280 (755 West Virginia Street), to Hannah Court. (Manuel B. and Lorena S. Serrano, Owner). CEQA: Exempt. SNI: Burbank/Del Monte. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
ST 04-002 - District 6**

Documents Filed: Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 15, 2004, recommending approval of the proposed Street Name.

11.5 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, Resolution No.72352, entitled: "A Resolution of the City Council of the City of San José Renaming West Virginia Street Between Hannah Street and Highway 2808 to Hannah Court", was adopted. (11-0).

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Madge Overhouse, known for years as the godmother of the Democratic Party in Santa Clara County at 9:14 P.M.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK

EW/10-5-04